CHAPTER 2-000 ELIGIBILITY REQUIREMENTS: The State of Nebraska provides the medical assistance programs for children outlined in this title. The following elements of eligibility must be met:

1. Application for assistance (see 477 NAC 2-001);
2. U.S. citizenship or alien status (see 477 NAC 2-002);
3. Nebraska residence (see 477 NAC 2-003);
4. Social Security number (see 477 NAC 2-004);
5. Age (see 477 NAC 2-005);
6. Pregnancy verification for an unborn (see 477 NAC 2-006);
7. Relative responsibility (see 477 NAC 2-007);
8. Income (see 477 NAC 2-009); and
9. Assignment of third party medical payments (see 477 NAC 2-010).

2-001 Application: A client's legal guardian, conservator, an individual acting under a duly executed power of attorney, a relative, or another individual acting on the client's behalf may apply for MA.

Using the prudent person principle (see 477 NAC 1-008), the worker may require a personal contact with the client or the client's representative.

{Effective 10/7/98}

2-002 Citizenship and Alien Status: In order to be eligible for public assistance, an individual's status must be documented as one of the following using acceptable documents, as defined by federal regulations and listed in 477-000-301:

1. A citizen of the United States;
   Note: The unborn of an alien is considered a citizen if the woman is residing in the U.S.
2. An alien lawfully admitted for permanent residence (see 477-000-304);
   For medical assistance for an emergency medical condition, see 477 NAC 2-002.04A;
3. A refugee admitted to the U.S. under Section 207 of the Immigration and Nationality Act (INA);
4. An asylee under Section 208 of INA;
5. An alien whose deportation is withheld under Section 243(h) of INA;
6. An alien from Cuba or Haiti who was admitted under Section 501(e) of the Refugee Education Assistance Act of 1980;
7. A refugee who entered the U.S. before April 1, 1980, and was granted conditional entry;
8. An alien who is paroled into the U.S. under Section 212(d)(5) of INA for a period of at least one year;
9. An Amerasian immigrant under Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as amended; or
10. An alien who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse's or parent's family who is residing in the same household as the alien.

Any individual who is born in the United States is considered a U.S. citizen. This includes children whose parents are not U.S. citizens, such as undocumented alien parents, parents with student visas, or parents with lawful temporary residence status. A pregnant woman who is not a legal alien may receive assistance for her unborn if all other eligibility requirements are met.

Receipt of SSI or Medicare is sufficient proof of citizenship or lawfully admitted alien status.

An initial application cannot be approved until citizenship or alien status is verified. Assistance for a U.S. citizen in an ongoing case must not be discontinued while awaiting verification as long as the client is cooperating in providing documentation. If the client is not cooperating in providing documentation, the client must be closed.

{Effective 2/28/07}

2-002.01 Verification of Alien Status: When a parent/individual states that one or more of the children for whom assistance is being requested is an alien, the worker must require the client to present verification for each alien child.

{Effective 2/28/07}

2-002.02 Repatriation Program: The Repatriation Program provides temporary assistance, care, and treatment for up to 90 days for U.S. citizens or dependents of U.S. citizens who have returned from foreign countries. To qualify for repatriation assistance, the individual must be returned from a foreign country because s/he is destitute or ill (including mentally ill) or because of war, threat of war, or a similar crisis. A request must be made by the State Department to the U.S. Department of Health and Human Services to receive the individual in the United States and to provide the necessary care, treatment, and assistance.

2-002.04A Emergency Medical Condition: An emergency medical condition is defined as a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) where the absence of immediate medical attention could reasonably be expected to result in–:

1. Serious jeopardy to the patient's health;
2. Serious impairment to bodily functions; or
3. Serious dysfunction of any bodily organ or part.

The State Review Team (SRT) makes the determination that the client has an emergency medical condition.

2-003 Residence: To be eligible for assistance, a client must be a Nebraska resident. A resident is defined as an individual living in the state voluntarily with the intent of making Nebraska his/her home. Migrants and itinerant workers are considered residents of Nebraska if they are living in Nebraska and entered the state to seek employment or to fulfill a job commitment.

Residence starts with the month the client moves into the state, even if the client received categorical assistance in another state. The agency may not deny assistance because an individual has not resided in the state for a specified period.

2-003.01 Residence of Individuals Entering the State: The intent of an individual to establish Nebraska residence must be investigated in accordance with this regulation if the individual comes into the state and immediately enters a home licensed by the Nebraska Department of Health and Human Services Regulation and Licensure (nursing home or alternate care facility). To determine the individual's intent to establish residence in Nebraska, the worker must consider the individual's purpose for entering the state. The individual is considered a Nebraska resident if his/her purpose for entering the state was because s/he:

1. Desired to be near to close friends or relatives in the state;
2. Previously resided in the state; or
3. Has other contacts in the state.

If none of the previously mentioned conditions exist, the worker shall evaluate the client's intent to establish residence. If the client states that s/he plans to establish residence but the situation seems to indicate otherwise, the worker shall review factors such as when the client entered the state, whether the client maintains a residence or owns property (including real and/or personal property) in another state, and place of residence of the client's spouse and other immediate family members. The worker shall also consider if the client was eligible for medical assistance in the state in which s/he previously resided, how the client was referred to the facility in Nebraska (e.g., family member, hospital staff, social service worker in the other state, etc.), and where the client would reside if s/he moved out of the facility in Nebraska, and any other related factors. Before denying assistance, the worker shall describe the circumstances on Form ASD-17 and submit it to the Central Office, including any information relating to the listed factors. At the Central Office a review and a decision will be made based upon the information relating to the listed factors.

2-003.02 Placement in an Out-of-State Institution: If a state arranges for an individual to be placed in an institution located in another state, the state making the placement is the individual's state of residence, regardless of the individual's indicated intent or ability to indicate intent.

2-003.03 Absence From the State: The agency may not deny assistance because an individual has not resided in the state for a specified period.

2-003.03A Temporary Absence: The agency may not terminate a resident's eligibility because of that person's temporary absence from the state if the person intends to return when the purpose of the absence has been accomplished, unless another state has determined that the person is a resident there for assistance purposes.

2-003.03B Loss of State Residence: Eligibility for assistance ends if the family unit leaves Nebraska with the intent of establishing its home in another state. The family may receive MA from Nebraska (if otherwise eligible) for a period not to exceed two months to enable the other state to process the application.

Exception: Individuals who leave the state for longer than 60 days may continue to receive assistance in Nebraska if they are absent for a temporary purpose and intend to return.

2-003.03C Out-of-State Medical: If an out-of-state provider does not sign an agreement with NMAP and accept the reimbursement rate, the client is liable for any medical bills. Payment may be approved for services provided outside Nebraska in the following situations:

1. When an emergency arises from accident or sudden illness while a client is visiting in another state and the client's health would be endangered if medical care is postponed until s/he returns to Nebraska;
2. When a client customarily obtains a medically necessary service in another state because the service is more accessible;
3. When the client requires a medically necessary service that is not available in Nebraska but is available in another state; and
4. When the client requires a medically necessary nursing facility not available in Nebraska.

2-003.03D Prior Authorization Requirements: Prior authorization is required for services provided outside Nebraska when –

1. The service is not available in Nebraska (see 477 NAC 2-003.03C, items 3 and 4); or
2. The service requires prior authorization under the individual chapters of Title 471.

For prior authorization procedures for out-of-state services, see 471 NAC 1-002.02G2.

2-003.04 Disqualification for Misrepresenting Residence: Any person convicted in federal or state court of having fraudulently misrepresented his/her residence in order to obtain medical assistance in two or more states is ineligible for medical assistance for ten years from the date of conviction. Only the individual convicted of the misrepresentation is ineligible; other members of the family or household may receive benefits.

{Effective 12/27/97}

2-004 Requirement of Social Security Number (SSN): All eligible members of the MA units shall furnish Social Security numbers. The SSN, in conjunction with other information, provides evidence of identity of the individual.

2-004.01 Application for an SSN: Using a “Referral for Social Security Number Application,” the worker shall refer the client to the local Social Security office to obtain an SSN if -

1. The client does not have an SSN;
2. The client has not applied for an SSN for a newborn through the Enumeration at Birth process; or
3. The Social Security Administration, through the data exchange, is unable to verify the SSN furnished by the client.

If the client has not applied within 30 days of the date s/he is given the referral form, the worker shall not include the client in determining the size of the assistance unit. Before taking adverse action, the worker shall take into consideration the client's ability to follow through on the referral (such as lack of transportation, no visit by SSA to the contact station, lack of required verification documents, etc.) and use prudent person principle.

If the parent fails or refuses to apply for or furnish an SSN for:

1. Himself/herself, s/he is ineligible to be included in the unit. If the parent is a pregnant woman who is applying on behalf of her unborn, the unborn continues to be eligible. The case is opened under an interim number.
2. His/her spouse, the spouse is ineligible to be included in the unit;
3. One child but applies for or furnishes SSN's for other children, only the child without an SSN is ineligible to be included in the unit; or
4. All the children, the entire unit is ineligible.

If the client has applied for an SSN but has not yet received it by the next annual review, the worker shall complete another referral form and refer the client again to the local Social Security office.

2-004.02 SSN Application for a Newborn: Application for an SSN for a newborn is not an eligibility requirement during the six months of continuous eligibility (see 477 NAC 4-001.04A).

2-004.03 Assistance Pending Verification of SSN: After the client has been referred to SSA, if s/he is otherwise eligible, assistance is not delayed, denied, or discontinued pending the verification or assignment of an SSN.

2-005 Age Requirement: For age requirements for individual medical assistance programs, see 477 NAC 3-003.02 and 4-001.02.

2-005.01 Birthdate Used if Birth Information Is Incomplete: When birth information is incomplete, a birthdate is designated as follows:

1. If the year but not the month is known, July is used.
2. If the day of the month is not known, the 15th is used.

{Effective 5/8/05}

2-006 Pregnancy Verification: In order to receive MA for an unborn, the pregnant woman must provide a pregnancy verification. If the pregnant woman applies for presumptive eligibility, Form MS-91 may be used as the verification of pregnancy.

2-007 Relative Responsibility: Relative responsibility for MA includes:

1. Spouse for spouse; and
2. Parent (biological, adoptive, or step) for child if the child is age 18 or younger, is not an emancipated minor, and is still considered part of the household.

An alleged parent is not responsible unless he has acknowledged paternity in writing, a court has determined paternity, or he has performed acts or deeds that indicate paternity (see 477 NAC 2-007.03).

If a client and spouse are separated without legal action, the worker must determine whether there is a bona fide separation or temporary absence. If a client and responsible relative are not living together in the home, the worker must determine if it is a temporary absence. In the case of a temporary absence, the resources and income are considered together.

If a parent is absent due to active duty in the uniformed services of the U.S., that parent is not considered absent from the home. If the absence of a parent from the usual family setting is for other reasons, the worker must determine if the parent is continuing to exercise responsibility for the care and control of the child.

In the case of a bona fide separation, legal separation, or divorce, the resources and income of each are considered individually.

Physical absence from the home, such as for illness, does not in itself constitute a separation. For example, a spouse in the home still maintains responsibility for the spouse in the nursing home or alternate care facility if there is not a legal or bona fide separation or divorce.

Deprivation is not an eligibility factor for Children's Medical Assistance Programs.

{Effective 7/29/96}

2-007.01 Guidelines for Parental Responsibility: The worker shall use the following guidelines to determine if a child is considered part of the household:

1. If the child is living in the same household with parent(s), the parent(s)' income must be included.
   Exceptions: Home and Community Based and MR Waiver: If a child, living in the parent(s)' home is receiving Medicaid services through a Home and Community Based Service waiver or an MR waiver, the parent(s)' income and resources are not deemed. This does not require Central Office review.
2. If the child is temporarily absent from the home (generally 90 days or less) but is still considered part of the household, the parent(s)' income must be included. Temporary absence includes, but is not limited to, school attendance where the child returns to the home on a regular basis (weekends, vacations, or summers). Residence in an institution for mental retardation or mental illness for 90 days or less may be considered temporary absence if the child was living in the parent(s)' household before institutionalization and will return to the parent(s)' household upon discharge, within the 90 day timeframe.
3. If the child is permanently out of the home and no longer considered part of the household, the parent(s)' income must not be included.

If income is deemed from a parent to a child in an IMD, see 477 NAC 2-007.04.

2-007.02 Determination of Unit Members: The principles of relative responsibility determine if individuals who are applying for the same medical assistance program are in the same or separate units.

2-007.03 Determination of Paternity: If an alleged father has not signed a written and notarized paternity acknowledgment or a court has not determined him to be the father, the worker shall determine if there is sufficient evidence of acts (such as furnishing of support) which reasonably indicate that he considers himself to be the father of the child. Some examples of acts or deeds by the alleged father that indicate acknowledgment of paternity are -

1. Signature on the baptismal certificate or hospital birth record;
2. Payment of hospital bills for the child's delivery;
3. Payment of other medical bills for the child;
4. Signature or reference to himself as father on a card, letter, postcard, etc.;
5. Statements by the alleged father that he is the father of the child;
6. Inclusion of the child on the alleged father's health insurance;
7. A life insurance policy purchased by the alleged father listing himself as the father;
8. Purchase by the alleged father of clothes or other items for the child;
9. Evidence that the child was conceived or born while the mother and alleged father were living together and representing themselves as married in a state that recognizes common law marriages; or
10. Furnishing of financial support.

Note: Paternity cannot be established for an unborn without a signed and notarized paternity acknowledgment.

2-007.03A Children of a Marriage: A woman's spouse is considered the father of any children who are conceived or born during a marriage even if the couple is separated and/or has filed for divorce or annulment unless there is a court order that states otherwise. If a woman states that her spouse is not the father of her child, the worker shall encourage her to pursue the establishment of paternity, unless good cause exists.

2-007.04 Relative Responsibility for a Child in an IMD: If a child who is placed in an IMD is a ward of the Department or another public agency or if the placement is court-ordered, see 479 NAC 4-000.

If the child who is placed in an IMD is still considered part of the household (see 477 NAC 2-007.01), the parent(s)' income is deemed using the following calculation procedures:

1. Take all gross earned income of the parent(s). If the parent(s) is self-employed, allow disregards for self-employment (see 477 NAC 2-009.01A2a).
2. Subtract the $100 earned income disregard from the gross earned income of each employed parent;
3. Add all unearned income of the parent(s). Include any unearned income that is received by the parent(s) on behalf of the child but retained by the parent, e.g., child support, RSDI, VA;
4. Subtract any amounts actually paid by the parent(s) to people not living in the household who are claimed or could be claimed by the parent(s) as dependents for income tax;
5. Subtract payments of alimony or child support for individuals not living in the household;
6. Subtract the medically needy income level for the minor's parent(s), and any other dependents of the parent(s) who are in the home and who are or could be claimed by the parent(s) as dependents for income tax purposes (excluding the child in the IMD); and
7. Deem any remaining income as unearned income to the child.

Resources of the parent(s) are also considered, using resource exemptions and rules (see 477 NAC 3-003.03).

{Effective 10/15/2002}

2-007.05 Joint Physical Custody: In a household where both parents are not continuously present, the worker must determine if both parents are present to the extent that the income and resources of both parents must be used in the eligibility determination and the needs of both included in the unit. This policy applies when the non-custodial parent has sufficiently frequent contact with the child(ren) so that the normal parental roles of providing guidance, physical care, and maintenance have not been interrupted. In addition, this policy applies when there is joint physical (shared) custody where the physical custody of the child(ren) is split between both parents. This can be either on a scheduled basis as included in a divorce decree or on an informal basis agreed to by both parents.

{Effective 5/8/05}

2-008 Living Arrangement: With the exception of the situations listed in 477 NAC 2-008.01, an individual is eligible regardless of the living arrangement.

2-008.01 Ineligible Living Arrangements: An individual is not eligible to receive MA if in a prison, jail, or veteran's hospital.

A child is ineligible if s/he is residing in a detention facility, forestry camp, training school, or any other facility that is operated primarily for the detention of children who are determined to be delinquent.

2-009 Income: With the exception of income deemed or allocated to another unit, all income of the client and responsible relative, whether earned or unearned, must be considered.

If the responsible relative's income has been deemed to another assistance unit, the deemed amount must be deducted to arrive at the countable income for the Ribicoff, MAC, EMAC, or SAM child(ren). The resulting income is allowed income disregards, if appropriate.

If an MA client lives with a spouse or parent who is receiving ADC/MA, RRP/MA, AABD/MA, or SDP/MA, the budgets must be computed separately.

Neither the needs nor the income of the MA client may be considered in the spouse's or parent's budget.

2-009.01 Types of Income

2-009.01A Earned Income: Earned income is money received from wages, tips, salary, commissions, profits from activities in which an individual is engaged as a self-employed person or as an employee, or items of need received at no cost in lieu of wages.

Note: Reimbursement for employment-related expenses such as mileage, meals, and lodging is not considered earned income.

2-009.01A1 Contractual Income: The worker must prorate income paid on a contractual basis. The worker must prorate the income over the number of months covered under the contract, even if the client or responsible relative is paid in fewer months than the contract covers. For example, if a teacher's contract is for 12 months, but s/he is paid over 9 months, the income is prorated over the 12-month period.

Income received intermittently such as farm income is prorated over the period it is intended to cover.

2-009.01A2 Earned Income Disregards: If a parent is not in the unit but his/her income is used in the budget calculation, the earned income is allowed the $100 earned income disregard and the child care disregard, if appropriate.

{Effective 10/15/2002}

2-009.01A2a Disregards for Self-Employed: Operating expenses related to producing the goods or services and without which the goods or services could not be produced are deducted from gross income. Operating expenses may include -

1. Cost of goods sold;
2. Advertising;
3. Bad debts from sales or services;
4. Bank service charges;
5. Car and truck expenses;
6. Commission;
7. Employee benefit programs;
8. Freight/shipping costs;
9. Insurance;
10. Interest on business indebtedness;
11. Laundry and cleaning;
12. Legal and professional services;
13. Office supplies and postage;
14. Rent on business property;
15. Repairs and maintenance;
16. Supplies;
17. Utilities and telephone;
18. Wages; and
19. Transportation other than to and from work and child care.

2-009.01A2a(1) Operating Expenses - Farm Income: The following expenses related to farm income are considered operating expenses:

1. Cost of goods sold;
2. Cost of labor;
3. Repairs and maintenance;
4. Interest;
5. Rent of farm, pasture;
6. Feed purchased;
7. Seeds, plants purchased;
8. Fertilizers, lime, and chemicals;
9. Cost of machines leased;
10. Supplies purchased;
11. Breeding fees;
12. Veterinary fees, medicine;
13. Gasoline, fuel, or oil;
14. Storage, warehousing;
15. Insurance;
16. Utilities;
17. Freight, trucking;
18. Conservation expenses;
19. Land clearing expenses; and
20. Employee benefit programs.

2-009.01A2a(2) Operating Expenses Not Allowed: The following expenses are not allowed as operating expenses:

1. Depreciation;
2. Personal business expenses such as subscriptions, dues to professional organizations and unions, training courses, etc.;
3. Personal transportation;
4. Purchase of capital equipment;
5. Payments on the principal of loans; and
6. Business-related entertainment expenses.

If the 1040 document is used to verify income, the worker does not allow depreciation as a cost of operation and does not count capital gains and other gains or losses from IRS Form 4797 or IRA distributions as income.

2-009.01A2a(3) Offset of Earnings: If a client has a combination of farm, self-employment income, or regular earned income, a loss from one source of income may be used to offset a gain from another source.

2-009.01A2b Earned Income Disregard: A $100 disregard is deducted from gross earned income of each employed individual to determine the amount of net earned income used in the budgeting process. Self-employment income is allowed disregards before application of the $100 disregard.

{Effective 10/15/2002}

2-009.01A2c Child Care Disregard: If a client requires child care in order to participate in education, training, or employment, the worker must first make a referral for Child Care Assistance payment of child care. If the client or the child care arrangements do not qualify for Child Care Assistance payment or the client chooses not to receive child care through Child Care Assistance, the actual cost of child care as billed or paid is disregarded from earned income. If the client pays weekly or bi-weekly, the worker uses income conversion tables (see 477-000-201). The client must provide proof of child care costs.

The cost of child care is allowed for a parent whose income is used in the budget computation.

{Effective 4/11/95}

2-009.01A2d Medical Insurance Disregards: The cost of medical insurance premiums is deducted if the client or responsible relative is responsible for payment. The Medicare Part B premium which the client or responsible relative is responsible for paying is included in this disregard.

Exception: The cost of premiums for income-producing policies is not allowed as a medical deduction.

2-009.01A2e Treatment of Income for a Minor Parent: If a minor parent is living with his/her parent(s) and wants Medicaid for himself/herself and his/her child, income of the minor's parent is used in determining eligibility. If the minor parent wants Medicaid for his/her child but not for himself/herself, only income of the minor and the minor's child is considered.

{Effective 8/18/03}

2-009.01B Unearned Income: Unearned income includes, but is not limited to:

1. Retirement, Survivors, and Disability Insurance (RSDI) under the Social Security Act;
2. Railroad Retirement;
3. Veteran's or military service benefits;
4. Unemployment compensation or disability insurance benefits;
5. Disability benefits paid by the employer (this does not include sick leave);
6. Worker's compensation;
7. Child/spousal support;
8. Contributions;
9. Gifts;
10. Lease income;
11. Annuities;
12. Pensions, or returns from investments or securities in which the individual is not actively engaged; and
13. Civil service benefits.

If payments are received annually, semi-annually, or quarterly, the amount is prorated on a monthly basis.

If the client receives a benefit (such as RSDI or VA) for an individual who is not in the unit and does not give the benefit to the individual, it is counted as income to the client.

2-009.01B1 SSI Benefits: SSI benefits are considered unearned income but the SSI payment is not used in computing the budget.

2-009.01B2 Contributions: The following are not considered contributions:

1. Energy assistance;
2. Emergency assistance;
3. General assistance;
4. Crisis assistance from a community agency, service agency, or an individual;
5. Payments made by an absent parent; or
6. Shelter costs provided to an individual residing in an alternate care facility, child caring agency, or licensed alcohol/drug treatment center.

2-009.01B2a From an Individual Not in the Household: If an individual who is not living in the household gives money to the unit, the income must be counted in the budget. See 477 NAC 2-009.01B2e for treatment of support paid by an absent parent without a court order.

In order to determine how to treat the income, the worker shall determine to whom the contribution is paid.

When an individual (a self-supporting individual who is living in the household or an individual who is not living in the household, including an absent parent) makes payments directly to the vendor on behalf of the client or provides total shelter, the worker shall consult the chart of the amounts counted for shelter (see 477 NAC 2-009.01B2d).

If an individual is paying room and board to a client, it is considered earned income (see 477 NAC 2-009.01G, number 10).

{Effective 12/27/97}

2-009.01B2a(1) Budgeting: The budget is figured according to the following guidelines:

1. If the individual pays the entire obligation or provides the total shelter, the worker shows the appropriate figure from the chart as unearned income in the budget;
2. If the individual pays the entire obligation or provides the total shelter, but the amount is less than the figure allowed in the standard of need, the worker shows the actual amount paid as unearned income; or
3. If the individual makes only partial payments or provides partial shelter, the worker does not count any of the payment in the budget.

{Effective 4/11/95}

2-009.01B2b Contributions Not Counted as Income: A contribution is not counted as income in the following situations:

1. A self-supporting individual pays the client for a portion of the shelter expenses;
2. The client states that s/he and a self-supporting individual are sharing expenses. The worker shall document the statement in the case record;
3. A foster child is living in a home with children who are receiving assistance. The foster care payments are not counted as income to the assistance unit;
4. An individual who is not in the unit is making payments to a vendor for services or goods not listed in 477 NAC 2-009.01B2, such as car payments.
5. Two or more assistance units are in the same household and share expenses. Income of one unit is not counted toward another unit;
6. In determining initial eligibility only when the applicant -
   a. Has no income and has been forced to share a living arrangement with a self-supporting individual because of a crisis situation; and
   b. Plans to make other arrangements (either to move or pay a share of the expenses) as soon as s/he has income; and
7. Shelter that is indirectly provided to an eligible child by a non-responsible relative, such as a household consisting of ineligible parents, a minor parent for whom assistance is not being requested, and the minor's child, a MAC-eligible infant.

The worker shall investigate to see if a contribution needs to be counted on the client's budget as soon as the client begins receiving income.

{Effective 4/11/95}

2-009.01B2c Shelter Furnished in Lieu of Wages: Shelter furnished in lieu of wages is treated as earned income (see 477 NAC 2-009.01A).

{Effective 4/11/95}

2-009.01B2d Shelter Amounts From ADC Payment Maximums:

	Unit Size											
	1	2	3	4	5	6	7	8	9	10	11	12
Shelter	101	101	103	105	108	109	111	112	113	114	123	133

Shelter includes taxes and insurance.

The worker shall compare the shelter obligation to the chart, using the amount shown for the unit size.

{Effective 12/27/97}

2-009.01B2e Payments Made by a Noncustodial Parent: Any child/spousal support paid to the clerk of the district court or received directly by the client is considered unearned income. If payment has been irregular or less than the court-ordered amount, support paid for the last three months is averaged (unless there has been a significant change). If there is a payment trend, that amount is used.

If the Department is retaining part of the child support payments to satisfy a debt to the State, the worker shall use no more than the court-ordered amount. If there is no debt to the State, the worker uses a three-month average of the total amount of support that is being paid.

{Effective 12/27/97}

2-009.01B3 (Reserved)

2-009.01B4 Third Party Medical Payments: Income received from a third party that pays the client directly is -

1. Disregarded if it is refunded to the provider or the Department as reimbursement for a specific service; or
2. Counted as unearned income if the client fails or refuses to refund these payments.

If the client receives a third party medical payment directly, see 477 NAC 2-010.04.

2-009.01B4a Income-Producing Policies: Income received from an insurance policy that supplements the client's income while s/he is hospitalized or receiving medical care is treated as unearned income. These policies provide income regardless of the type of service being provided or the condition of the client. If it is verified that the income was applied to medical bills, the income is not counted in the client's budget.

Income is not counted from health insurance policies which pay the client directly for the purpose of reimbursement to the provider and which cover a specific service(s).

2-009.01B5 Potential Income: Potential income is defined as income based on entitlement or need which is usually determined by an administering agency as a result of an application for benefits by the individual. Potential income includes, but is not limited to, RSDI, categorical assistance, Railroad Retirement, veteran's or military service benefits, unemployment compensation, disability insurance benefits, and worker's compensation. Medicare is not considered a potential benefit.

The worker shall explore each individual's potential entitlement for benefits. The client is required to apply for any benefits for which s/he appears to be entitled within 60 days of the date the worker notifies the client of the requirement. The worker shall refer the responsible relative for any potential benefit, but there is no sanction if the responsible relative fails or refuses to apply. The worker shall not delay determination of eligibility for assistance and authorization of payment pending determination of entitlement for benefits. After the worker has determined the client's eligibility for categorical assistance s/he shall notify the client in writing of the requirement to apply for a benefit for which the client appears eligible and inform the client of the number of days left in which to apply.

2-009.01B5a Refusal to Apply: A client is expected to make application for and accept benefits promptly after the worker has discussed the client's apparent entitlement to the benefits. When an application for MA is approved, the client is notified on a Notice of Action of the number of days left in which to apply. If the individual fails or refuses to make application within 60 days after notification by the worker or refuses to accept benefits for which s/he has been determined eligible, eligibility cannot be determined for the noncooperating client; the child(ren) remain eligible if they meet all other eligibility requirements.

2-009.01B5b Veteran's Benefits: Clients who are veterans, their spouses, and the widows of veterans may be eligible for "Aid and Attendant" services. This service may be available and is to be explored if the individual is in a nursing home, residing in his/her own home, in an Adult Foster Home, or other alternate arrangement when the individual requires aid with daily living activities.

2-009.01B6 Intercepted or Garnisheed Income: Procedures have been set up to intercept certain benefits payable to a noncustodial parent when s/he has a debt to the State.

If a portion of the client's or responsible relative's unemployment compensation, RSDI, or other income is intercepted, the worker shall count the full amount of entitlement in the budget computation. Similarly, if wages of the client or responsible relative are garnisheed, the worker shall count the gross amount of income before garnishment.

2-009.01B7 Settlements: Insurance payments for damage to personal property caused by a disaster are not treated as a lump sum. The client is allowed a reasonable period of time to repair or replace the property.

When a client is a beneficiary of life insurance, verified payment of debts or obligations of the deceased are subtracted from the settlement.

When a client receives an insurance settlement or other lump sum, the worker deducts from the lump sum any bills relating to the cause of the settlement that the client is obligated to pay, such as attorney's fees and court costs.

2-009.01B8 Lump Sum Payments: Lump sums are not considered income. Any unspent remainder is considered a resource in the month following the month of receipt or report taking into account the timely notice provision.
Exception: The unspent portion of an RSDI or SSI retroactive payment is excluded for six months following the month of receipt.

Income received in a single sum is considered a lump sum payment and treated the same as accumulated benefit payments.

2-009.01C Verification of Income:

2-009.01C1 Ribicoff: The worker must verify irregular income every three months and regular income every six months. Regular income must be verified using one month's income as a minimum. Irregular income must be verified using the three most consecutive months, if available.

2-009.01C2 Poverty Level Children's Programs: (Initial Eligibility): One month of current income is used to determine initial eligibility for SAM, MAC, EMAC, SEMAC, and Kids Connection. Income Conversion Charts are used for weekly and bi-weekly income (see 477-000-201).

Once eligibility has been determined, no verification is required during the initial six months continuous eligibility (see 477 NAC 1-013).

2-009.01C3 Poverty Level Children's Programs (Review): When the unit has received the initial six months' continuous eligibility, income must be reviewed. The unit's income must be verified using the most recent months' income for irregular income (not to exceed three months) and one month's income for regular income. Income conversion charts are used for weekly and bi-weekly income. This figure is used to project medical eligibility unless:

1. There was a significant change in the income of the previous three months; or
2. The worker anticipates a significant change during the projected six-month period.

Households with income from self-employment or farming where the most recent 1040 has been used as the basis for the income computation will not need to provide new verification unless they have filed a more recent tax return.

2-009.01D Income for Budgeting:

2-009.01D1 Ribicoff: The worker must average the most recent three months' actual income to arrive at the gross income amount for the income period. Income conversion charts are used for weekly and bi-weekly income. This figure is used to project medical eligibility for the next six months unless:

1. There was a significant change in the income of the previous three months; or
2. The worker anticipates a significant change during the projected six-month period.

When income fluctuates, the worker must use an average of income for the three most recent consecutive months. When income is stable, the worker must use one month's income.

Only one budget may be based on the client's declaration of income. If the worker has not received verification for the second budget, the case must be closed.

2-009.01D2 Eligibility of Family Members: The Medicaid eligibility of each family member must be determined based on the family's total countable income. The family's income is compared to the appropriate income standard for a family of that size. The worker must determine the eligibility of:

1. Uninsured children at an income level no greater than 185% of the Federal Poverty Level;
2. Insured children at an income level no greater than the appropriate Federal Poverty Level determined by the child's age;
3. Adults using income standards no greater than the applicable medical categorical eligibility standards established by federal or state law.

For further explanation and examples, see 477-000-302.
{Effective 10/15/2002}

2-009.01E Retroactive Medical Eligibility: To determine retroactive medical eligibility, the worker must use the month's actual income (see 477 NAC 2-012.02). If the client has excess resources because of real property during the retroactive period, s/he is ineligible for retroactive medical assistance under Ribicoff, see 477 NAC 3-003.03G2e ff.).

2-009.01F Income As It Applies to Resources: Income received by a client or responsible relative during any one month for maintenance costs is not considered a resource for that month. Any income not spent for maintenance is considered a resource in the subsequent month.

2-009.01G Income Listing: Following is a listing of some income types and treatment.

TYPES OF INCOME	TREATMENT OF INCOME
1. a. Earnings of child age 18 Or younger in school	1. a. Disregard.
b. Earnings of a child age 18 or younger and not in school	b. Treat as earned income. (For a minor parent who is applying for Medicaid for himself/herself, see 477 NAC 2-009.01A2e.)
2. Indian Land Lease	2. Disregard.
3. Income from land contracts	3. Consider as unearned income.

4.	HUD rental and/or utility subsidies under Section 8 of the Housing Act (lump sum or monthly payments)	4. Disregard.
5.	Declared cash winnings, interest, dividends (may be prorated on a monthly basis), a gift that marks a special occasion, small and insignificant children's cash allowances	5. Disregard if $10 a month per individual for each income type. If more than $10 a month per individual, count the amount that exceeds $10 as unearned income.
6.	Income from securities and investments	6. See number 5.
7.	Interest on Series H savings bonds and other bonds which pay dividends or interest	7. See number 5.
8.	Sale of home produce, livestock, poultry	8. Consider as earned income.
9.	Home produce from garden, livestock, and poultry used by the household for their own consumption	9. Disregard.
10.	Income from boarders, rented rooms, and apartments	10. Consider as earned income (see 477 NAC 2-009.01A). Treat like a small business (see 477 NAC 2-009.01A2a). <u>Exception</u>: Income received from foster care payments is disregarded.
11.	Rental income from real property	11. Consider as earned income (see 477 NAC 2-009.01A). Treat like a small business (see 477 NAC 2-009.01A2a).

12. Payments from Title I Workforce Investment Act (WIA) For classroom training	12 Disregard.
13. Earnings received from the employer or compensation in Lieu of wages under a Title I WIA program	13. Disregard for a student regardless of age.
14. Title I WIA program allowance paid to the client or vendor payments made to the provider for supportive services, such as transportation, meals, special tools, and clothing. This includes temporary Welfare-to-Work payments made through Workforce Development.	14. Disregard for all ages.
15. Earned and unearned income received by a youth age 18 or younger under a Title I WIA program. For a minor parent who is applying for Medicaid for himself/herself, see 477 NAC 2-009.01A2e.	15. Disregard.
16. Income from life estate in real property	16. Consider as unearned income; determine the total cost of operation and deduct from gross income.
17. Interest on Series E savings bonds and other bonds which accrue interest	17. Consider as unearned income when redeemed.

18. Picket pay or strike pay	18. Consider as earned income.
19. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970	19. Disregard.
20. Any student financial assistance	20. Disregard.
21. A bona fide loan from any source	21. Disregard.
22. Financial assistance for a graduate student or a student working for a second degree if the student is required to work in order to receive the assistance. This includes work study, stipends, fellowships, and graduate assistantships.	22. Consider as earned income.
23. Payments to a client participating in training or school attendance subsidized by the Division of Vocational Rehabilitation	23. Disregard.
24. Food stamps	24. Disregard.
25. The value of federally donated foods	25. Disregard.

26. Indian judgment funds distributed as per capita payments to members of Indian tribes or held in trust by the Secretary of the Interior, interest and investment income accrued on Indian judgment funds while held in trust, and purchases made with the funds	26. Disregard.
27. Payments from the Nutrition Program for the elderly	27. Disregard.
28. Payments for services or reimbursement of expenses to volunteers serving as foster grandparents, senior health aides, or senior companions, Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE) and any other programs under Titles II and III, (P. L. 93-113)	28. Disregard.
29. Federal and state income tax refunds	29. Disregard.
30. Payments to Ameri Corps volunteers	30. Disregard.
31. Retroactive RSDI benefits	31. See 477 NAC 2-009.01B8.
32. Christmas bonus/work related bonus	32. Consider as earned income. Count as an earned income lump sum if received in a separate check.
33. Energy payments	33. Disregard.

34. The value of assistance from a Child Nutrition Act or National School Lunch Program	34. Disregard.
35. EIC's	35. Disregard.
36. AEIC's	36. Disregard.
37. Income from Experience Works, Inc., Senior Community Service Employment, and any other income received under Title V of the Older Americans Act	37. Disregard.
38. Income from the sale of blood or plasma	38. Consider as earned income from self-employment.
39. Agent Orange Settlement payments	39. Disregard.
40. Payments made under the Radiation Exposure Compensation Act	40. Disregard.
41. The living allowance issued to Job Corps recipients or the readjustment allowance that is issued when Job Corps participants leave the program	41. Consider as earned income.
42. In-kind income received by Job Corps participants for food, shelter, etc.	42. Disregard.
43. Jury duty pay	43. Disregard.

44. Payments received from a state or local government to assist in relocation	44. Disregard.
45. Victims compensation payments, i.e., payments received from a state or local government to aid victims of crime	45. Disregard.
46. Benefits under Public Law 104-204 for a child born with spina bifida and whose parent(s) is a Vietnam veteran	46. Disregard.
47. Payments made from any fund established as a result of the case of Susan Walker v. Bayer Corporation, et al. to hemophilia patients who are infected with human immunodeficiency virus	47. Disregard.
48. Payments to individuals due to their status as victims of Nazi persecution	48. Disregard.
49. Assistance received under the Disaster Relief Act of 1974 or under a Federal statute because of catastrophe declared to be a major disaster by the President of the U.S. and any interest earned on the assistance	49. Disregard.

{Effective 9/27/2000}

2-009.01G1 Minor Parent: See 477 NAC 2-009.01A2e if the minor parent wants to apply for medical assistance for himself/herself. See 477 NAC 4-001.03A1 if the minor parent wants to apply for EMAC, MAC, or SEMAC for his/her child.

2-010 Assignment of Third Party Medical Payments: Application for and acceptance of medical assistance constitutes an automatic assignment to the Nebraska Department of Health and Human Services Finance and Support of the client's right to third party medical payments.

This assignment gives the Department the right to pursue and receive payments from any third party liable to pay for the cost of medical care and services of the client or any other unit member and which otherwise would be covered by CMAP.

The assignment of the rights to third party medical payments is effective with the date of eligibility for medical assistance. For MA cases with a share of cost, the assignment becomes effective the first day of the month when the case status changes to 450, "obligation met."share of cost met.

2-010.01 (Reserved)

2-010.02 Third Party Payments Not Assigned: The following third party payments are not subject to the automatic assignment provision:

1. Medicare benefits; and
2. Payments from income-producing policies which subsidize the client's income while s/he is hospitalized or receiving medical care, regardless of the type of medical service being provided (see 477 NAC 2-009.01B4a).

2-010.03 Cooperation in Obtaining Third Party Payments: As a condition of eligibility for medical assistance, the client shall cooperate in obtaining third party payments unless s/he has good cause for noncooperation (see 477 NAC 2-010.03B). Cooperation includes any or all of the following:

1. Providing complete information regarding the extent of third party coverage which s/he or any other unit member has or may have. This includes coverage provided by a person not in the unit or by an agency;
2. Providing any additional information or signing claim forms which may be necessary for identification and collection of potential third party payments;
3. Appearing as a witness in a court or another proceeding, if necessary;
4. Notifying the Department of any action s/he is initiating to recover money from a liable third party for medical care or services. This includes the identity of the third party as well as the entire amount of any settlement, court award, or judgment;
5. Reimbursing the Department or paying to the provider any payments received directly from a third party for any services payable by NMAP; and
6. Taking any other reasonable steps to secure medical support payments.

2-010.03A Refusal to Cooperate: The worker is responsible for determining noncooperation by the client. This determination is based on the client's failure or refusal to fulfill the requirements listed in 477 NAC 2-010.03.

2-010.03B Opportunity to Claim Good Cause

2-010.03B1 Notification of Right: The worker shall notify the client of the right to claim good cause for noncooperation at the intake interview, redetermination, and whenever cooperation becomes an issue.

The worker shall give the client a verbal explanation of good cause and the opportunity to ask questions.

At the initial interview the client shall sign a written explanation of good cause, Form IM-60.

2-010.03B2 Worker's Responsibilities if Good Cause Claimed: If the client claims good cause, the worker shall -

1. Explain that the client has the burden of establishing the existence of a good cause circumstance; and
2. Obtain a signed statement from the client listing the reason(s) for claiming good cause. The client is allowed 20 days to present evidence of the claim.

2-010.03B3 Acceptable Circumstances for Good Cause: Good cause claims must be substantiated by signed statements. When documentary evidence is not available the client shall furnish sufficient information as to the location of the information.

To establish good cause, the evidence must show that cooperation would not be in the best interest of the client or another unit member for whom assignment is sought. Good cause includes the following circumstances, provided proper evidence is obtained.

2-010.03B3a Physical or Emotional Harm to the Client or Other Unit Member: Good cause exists if the client's cooperation in assigning benefits is reasonably anticipated to result in physical or emotional harm to the client or another unit member. Emotional harm must only be based upon a demonstration of an emotional impairment that substantially reduces the individual's functioning.

2-010.03B3a(1) Documentary Evidence: Documentary evidence which indicates these circumstances includes -

1. Medical records which document emotional health history and present emotional health status of the client or other unit member;
2. Written statements from a mental health professional indicating the diagnosis or prognosis concerning the emotional health of the client or other unit member;
3. Court, medical, criminal, protective services, social services, psychological, or law enforcement records which indicate that the third party might inflict serious physical or emotional harm on the child or parent/needy caretaker relative; or
4. Signed statements from individuals other than the client with knowledge of the circumstances which provide the basis for the claim.

2-010.03B3a(2) Evidence Not Submitted by Client: When the claim is based on the client's anticipation of physical harm and corroborative evidence is not submitted in support of the claim the worker shall -

1. Investigate the good cause claim when s/he believes that the claim is credible without corroborative evidence and corroborative evidence is not available; and
2. Find good cause if the client's statement and the investigation indicate that the client has good cause for refusing to cooperate.

2-010.03B3a(3) Worker Considerations: If the determination of good cause is not substantiated by documentary evidence, the worker shall consider and document the following evidence:

1. The present physical or mental state of the client;
2. The physical or mental health history of the client;
3. Intensity and probable duration of the physical or mental upset; and
4. The degree of cooperation required by the client.

2-010.03B4 Decision on Good Cause: The worker shall determine good cause and notify the client of the decision on a Notice of Action. If the worker determines that good cause does not exist, s/he allows the client ten days to respond from the date that the Notice of Action was mailed. If the client does not cooperate, withdraw the application, or request the case closed, a sanction is imposed (see 477 NAC 2-010.03C).

2-010.03B5 Delay of Assistance Pending Determination: The agency must not deny, delay, or discontinue assistance pending a determination of good cause if the client has complied with the requirements of providing acceptable evidence or other necessary information. In most instances, a good cause determination must be made within 30 days following the receipt of a claim.

2-010.03B6 Review of Good Cause: At the time of each redetermination, the worker shall review a good cause claim based on a circumstance that is subject to change.

If circumstances remain the same, no action is required. A new determination is necessary if circumstances have changed. If good cause no longer exists, the requirement to cooperate must be enforced.

2-010.03C Sanction for Refusal to Cooperate: If the client fails or refuses to cooperate and there is no good cause claim or determination, the appropriate sanction is applied.

If the reason for noncooperation is the client's failure or refusal to provide information about or obtain third party medical payments (see 477 NAC 2-010.03), the client is ineligible for MA. Ineligibility continues for the client until s/he cooperates or cooperation is no longer an issue.

2-010.03C1 Children's Eligibility if Parent Does Not Cooperate: If a parent who is applying for medical assistance for his/her child(ren) (including an unborn) fails or refuses to cooperate with TPL, eligibility of the child(ren) is not affected.

2-010.04 Third Party Payments Received Directly: If the client receives a third party medical payment directly and the medical expense for which the third party medical payment is intended is payable by NMAP, the payment is considered unearned income unless reimbursed by the client.

If the insurance payment exceeds NMAP rates, the excess is considered unearned income unless paid out on other medical services or supplies.

Regardless of the existence of a good cause claim, any third party medical payment that is received directly by the client must be reimbursed.

2-010.05 Willfully Withheld Information: When the evidence clearly establishes that a client willfully withheld information regarding a third party medical payment which resulted in an overpayment of NMAP expenditures the worker shall refer the case to the Special Investigation Unit, Central Office, or in the Omaha Office to the Omaha Special Investigation Unit. Once a cause has been referred to the Special Investigation Unit, the worker shall take no action with regard to the prosecution of the suspected fraud except in accordance with instructions or approval by the Special Investigation Unit. However, the worker shall complete normal case actions which include applying the appropriate sanction in this section.

2-010.06 Termination of Assignment: When a client is removed from the medical unit, the assignment provision is terminated. The client's rights to any further third party and medical support payments are automatically restored effective with the date of ineligibility. However, the assignment remains in effect for the time period during which the client was on medical assistance.

2-010.07 Child Support Enforcement Services: Child Support Enforcement Services are provided to an MA child age 18 or younger who has a noncustodial parent(s).

Exceptions: CSE services are not provided for:

1. An unborn child;
2. A child(ren) who is receiving Home and Community Based Services in the home of both parents; or
3. An emancipated minor.

2-010.08 Cooperation in Obtaining Health Insurance: As a condition of eligibility for MA, a client is required to enroll in an available health plan if the Department has determined that it is cost effective and the client is able to enroll on his/her own behalf. The Department then pays the premiums, deductibles, coinsurance, and other cost sharing obligations.

2-011 Receipt of Other Assistance: An individual who receives MA may not at the same time receive a payment of another type of categorical assistance administered by the Department. This does not preclude an MA client from being the payee for a grant made on behalf of a child in the individual's care.

Assistance from a source other than the Department may be used to supplement but not duplicate assistance for a particular need.

2-012 Effective Date of Medical Eligibility: The effective date of eligibility for MA is determined according to the following regulations. If an individual is eligible one day of the month, s/he is eligible the entire month.

2-012.01 Prospective Eligibility: Prospective eligibility is effective the first day of the month of request if the client was eligible for CMAP in that same month and had a medical need.

2-012.02 Retroactive Eligibility: Retroactive eligibility is effective no earlier than the first day of the third month before the month of request if the following conditions are met:

1. Eligibility is determined and a budget computed separately for each of the three months;
2. A medical need exists; and
3. Elements of eligibility were met at some time during each month.

An applicant may be eligible for the retroactive period (or any single month(s) of the retroactive period) even though ineligible for the prospective period.

Six months continuous eligibility may begin in a retroactive month; in that case, no further budgets are required.

If a client, at the time of application, declares that s/he incurred medical expenses during the retroactive period and eligibility is not approved, the case record must contain documentation of the reason the client was not eligible in one or more months of the retroactive period.

{Effective 10/15/2002}

2-013 Required Copayments: CMAP adults are required to pay a copayment for the medical services listed at 477-000-205. Copayment amounts are listed at 477-000-205.

2-013.01 Covered Persons: The client's Medicaid card will indicate whether the client is subject to the copayment requirement. The provider may also verify the client's copayment status by contacting the Nebraska Medicaid Eligibility System (NMES).

{Effective 8/18/03}

2-013.02 Exempted Persons: The following individuals are exempted from the copayment requirement:

1. Individuals age 18 or younger;
2. Pregnant women through the immediate postpartum period (the immediate postpartum period begins on the last day of pregnancy and extends through the end of the month in which the 60-day period following termination of pregnancy ends);

3. Any individual who is an inpatient in a hospital, long term care facility (NF or ICF/MR), or other medical institution if the individual is required, as a condition of receiving services in the institution, to spend all but a minimal amount of his/her income required for personal needs for medical care costs;
4. Individuals residing in alternate care, which is defined as assisted living facilities, centers for the developmentally disabled, and adult family homes;
5. Individuals who are receiving waiver services, provided under a 1915(c) waiver, such as the Community-Based Waiver for Adults with Mental Retardation or Related Conditions; the Home and Community-Based Model Waiver for Children with Mental Retardation and Their Families; or the Home and Community-Based Waiver for Aged Persons or Adults or Children with Disabilities;
6. Individuals with SOC or (over the course of the SOC cycle, both before and after the obligation is met); and
7. Individuals who receive assistance under SDP.

2-013.03 Covered Services: For covered and excluded services, see 477-000-205.

2-013.04 (Reserved)

2-013.05 Client Rights: If a client believes that a provider has charged the client incorrectly, the client must continue to pay the copayments charged by that provider until the Department determines whether the copayment amounts are correct.

If the client is unable to pay the required copayment, s/he may inform the provider of the inability to pay. While the provider shall not refuse to provide services to the client in this situation, the client is still liable for the copayment and the provider may attempt to collect it from the client.

The client has the right to appeal under 465 NAC 2-001.02.

2-013.06 Collection of Copayment: For provider procedures, see 471 NAC 3-008.04.

2-014 Nebraska Health Connection (NHC): Managed care is required for all active Medicaid-eligible individuals except those excluded groups listed at 477-000-324. For more information, see Title 482.

2-015 Ineligibility of Fleeing Felon: An individual is ineligible for medical assistance during any period in which the individual is –

1. Fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the law of the place from which the individual is fleeing; or
2. Violating a condition of federal or state probation or parole.

{Effective 10/1/97}

2-016 Deeming of Income of Sponsors of Aliens: The worker shall consider 100 percent of the income and resources of a sponsor (and sponsor's spouse, if they are living together) when determining the eligibility of an alien who applies for CMAP if the sponsor has signed an affidavit of support under Section 213A of the Immigration and Nationality Act. The sponsor's income and resources will be considered available to the alien until the alien -

1. Becomes a U.S. citizen;
2. Has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with the qualifying quarters as provided under Section 435 and the alien did not receive any federal means tested public benefit during that time period.

This provision does not apply to restricted medical assistance in 477 NAC 2-002.04A.

{Effective 12/27/97}

2-016.01 Definition of a Sponsor: A sponsor is an individual who -

1. Is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;
2. Is 18 years of age or older;
3. Lives in any of the 50 states or the District of Columbia; and
4. Is the person petitioning for the admission of the alien under Section 204 of the Immigration and Nationality Act.

An organization is not considered a sponsor.

{Effective 12/27/97}

2-016.02 Alien Duties: As an eligibility requirement, the alien is responsible for -

1. Providing income and resource information from the sponsor; and
2. Obtaining the necessary cooperation from the sponsor.

If the alien does not provide the necessary information, s/he is not eligible for assistance.

{Effective 12/27/97}

2-016.03 Sponsor of More Than One Alien: When an individual is a sponsor for two or more aliens who are living in the same home, the amount of deemed income and resources of the sponsor (and the sponsor's spouse, if living with the sponsor) is divided equally among the aliens.

When an individual sponsors several aliens but not all apply for assistance, the sponsor's total deemable income and resources are applied to the needs of the aliens who apply for assistance.

{Effective 12/27/97}

2-016.04 Deeming Exception: If a sponsored immigrant demonstrates that s/he or his/her child(ren) have been battered or subjected to extreme cruelty by a spouse or a parent or by a member of the spouse's or parent's family who is residing in the same household as the alien, deeming may be waived if a judge, an administrative law judge, or INS recognize the battery or cruelty.